

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3908 of 1996

to

SPECIAL CIVIL APPLICATION No 3912 of 1996

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

AV NAYAK

Versus

GUJARAT HOUSING BOARD

Appearance:

MR IS SUPEHIA for Petitioner

MRS KETTY A MEHTA for Respondent No. 1

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 22/10/96

ORAL JUDGEMENT

The petitioners in all these petitions are serving as Sub Engineers in respondent Board [hereinafter referred to as "the Board"]. Under order

dated 24th September, 1993, all the petitioners were given benefit of higher pay scale of that of Rs.2200-4000. However, it appears that in view of the Government Resolution dated 16th August, 1994, the petitioners were entitled to the next higher pay scale and not the pay scale admissible to the next higher post. In that view of the matter, the Board issued circular on 17th February, 1995 directing that the Sub Engineers serving under the Board were entitled to the higher pay scale of Rs.1640-2900. It further directed that the necessary pay fixation be made in respect of those sub engineers who have earlier been given benefit of higher scale of Rs.2200-4000. Pursuant to the said circular, pay of all these petitioners has been revised under the impugned orders annexure "C" to these petitions.

2. Learned advocates for the parties agreed that a common question of law has been raised in all these petitions and all these petitions be heard and disposed of by common order.

3. Learned advocate Mr. Suphia appearing for the petitioners has contended that irrespective of the policy of the Government, benefit of higher pay which was offered to the petitioners could not have been withdrawn unilaterally without affording an opportunity of hearing to the petitioners. Learned advocate Ms. Mehta concedes that no opportunity to show cause/hearing has been afforded to the petitioners before making the impugned orders. IN that view of the matter, the impugned orders having been made in violation of the principles of natural justice, same are required to be quashed and set aside.

4. The petitions are allowed accordingly. The impugned orders annexure "C" to the petitions are hereby quashed and set aside. It is, however, clarified that the Board shall be at liberty to revise the pay of the petitioners pursuant to its Circular dated 17th February, 1995 after affording opportunity to the respective petitioners to show cause. The petitions are allowed to the aforesaid extent. It is clarified that this order is made without prejudice to the rights and contentions of the parties to these petitions. There shall be no order as to costs.

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